IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 16TH NOVEMBER 2007 / 25TH KARTHIKA 1929

WP(C).No. 19051 of 2007(R)

PETITIONER:

V.M.THOMAS, S/O. LATE THOMAS MATHAI,
AGED 56 YEARS, OTHIRATHU HOUSE,
ELANTHOOR KIZHEKKU, VARIYAPURAM, PATHANAMTHITTA.

BY ADV. SRI.ARUN.B.VARGHESE

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, HOME DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE DIRECTOR GENERAL OF POLICE,
POLICE HEAD QUARTERS, VAZHUTHAKKADU,
THIRUVANANTHAPURAM.

3. THE SUPERINTENDENT OF POLICE,
PATHANAMTHITTA.

4. THE SUB INSPECTOR OF POLICE,
PATHANAMTHITTA.

BY GOVERNMENT PLEADER SRI.P.RAVEENDRA BABU

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

R.BASANT, J.

W.P.C.No.19051 of 2007

Dated this the 16th day of November 2007

J U D G M E N T

The petitioner is the brother of the deceased in respect of whose death crime No.358/07 of Pathanamthitta police station has been registered under Section 174 Cr.P.C. The short prayer of the petitioner is that investigation into the said crime may be entrusted with more competent and serious hands. The petitioner is dissatisfied with the investigation that has been conducted so far.

2. I shall only refer to the vitally and crucially relevant facts. The deceased, the brother of the petitioner, is an ex-service man, whose wife is employed at Delhi. His children are also with his wife at Delhi. He was living alone at his native place. There are indications to suggest that the deceased was taken to alcoholic drinks . On 30/4/2007, his dead body was found in a Panchayat well. On receipt of information, police party and the fire force party had reached the scene and the body was taken out of the well. It was initially thought that it was a case of accidental fall into the well; but many questions remained unanswered. Relatives appear to have entertained a doubt that this is not a case of accidental death; but it was a case

of murder by certain persons enemical towards the petitioner who were found present along with the deceased at or shortly prior to the time when the body of the deceased was first found in the well. The petitioner, the brother of the deceased as also the wife of the deceased had raised complaints about the inadequate quality of investigation. Not getting any effective relief from the higher officials of the police, the petitioner had come to this court with a request that the investigation may be entrusted with the Crime Branch C.I.D.

3. The learned Public Prosecutor, after taking instructions, submits that proper investigation has been conducted by the local police. He further submits that on the petitions filed by the relatives of the deceased that a proper investigation is not being conducted, Crime Branch is conducting an enquiry into that petition. Some of the witnesses have been questioned by the officials of the Crime Branch; but that is not as part of the investigation in this case but only in connection with the enquiry into the petition regarding inadequate investigation.

4. The learned counsel for the petitioner makes the short prayer that inasmuch as the Crime Branch C.I.D is already seized of the matter though in a different context, there may be a direction to them to continue the full fledged investigation in this crime.

5. The case diary has been placed before me. I have perused the same. No specific conclusions appear to have been reached by the investigating officer so far, even though a period exceeding six months has elapsed from the date of registration of the crime. I shall not embark on a detailed enquiry about the quality of the investigation. I shall not cast any aspersions on the investigation that has been conducted so far. Suffice it to say that I totally agree with the learned counsel for the petitioner that the investigation deserves to be entrusted with safer, more competent and efficient hands which have greater infrastructure and equipments. The request of the learned counsel for the petitioner that the Crime Branch CID may be directed to conduct and continue the investigation in this case does appear to me to be absolutely justified.

6. In the result, this writ petition is allowed. The second respondent is directed to issue orders within a period of three weeks from this date entrusting the investigation to the Crime Branch C.I.D. Action taken shall be reported to this court.

Hand over copy of this order to the learned Public Prosecutor.

(R.BASANT, JUDGE)

jsr

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007